

Draft Model Tenancy Act 2019- Key to institutionalising India's Rental Housing Market: Knight Frank India and Khaitan & Co Report

Mumbai, October 14, 2019: Knight Frank India, international property consultancy and Khaitan & Co, one of India's largest law firms releases an in-depth study "**Institutionalising the Rental Housing Market in India – 2019**" which analyses the **Draft Model Tenancy Act, 2019 (MTA)**. According to the report, the MTA is a key step forward to balance the tenant-landlord relationship in India which can help institutionalise the rental housing market by creating an accountable and transparent environment for renting the premises in a disciplined and efficient manner.

The proposed MTA provides for a structure to a hitherto fragmented, yet highly valuable segment of housing by providing guidelines to some key aspects of rental housing. Some of the important aspects that the Act will address are:

- Provides for a prospective legislation covering in its scope the let out of residential, commercial and educational premises
- Sets up a three-tier redressal mechanism comprising a Rent Authority, Rent Court and Rent Tribunal
- Provides that once information is provided to the Rent Authority, it will issue a unique identification number to the transacting parties and upload necessary agreements on its website which shall be taken as evidence of facts relating to tenancy related matters
- Provides for a speedy dispute resolution mechanism to ensure that minimum time and material loss is incurred by either of the two parties
- To truly open up the rental market, it is imperative that the government formulate a way to balance social welfare of tenants and economic factors, which coupled with the protection accorded to landlords and tenants under the MTA will catalyse the rent out of vacant premises which has hitherto been lacking

Shishir Baijal, Chairman & Managing Director, Knight Frank India, *"The Draft Model Tenancy Act 2019, is important to ensure that India's housing challenges are adequately addressed with home owners willing to lease / rent out their vacant homes. As per estimates, over 11 million homes are vacant in urban areas alone, which can provide for housing solutions to many urban dwellers. The Act's ability to protect rights of both tenants and landlords will ensure a smoother leasing process, albeit, the adoption of the same is uniform across the country. A formalised market will further attract investment both national and global, as rental housing will provide for incremental rental income on a mid to long term basis, also opening up possibilities for REIT like investment opportunities."*

Sudip Mullik, Partner of Khaitan & Co said *"Limited policy relating to rental housing and existing legislations unfriendly to landlords / owners of premise have been a big deterrent for creation of rental housing stock in the country. The MTA provides a much-needed independent mechanism specially engineered to deal with issues pertaining to rental premises. MTA will provide for speedy remedies to both owner and occupier of rental properties and will enable the court to deal with more legal issues which require evaluation of various issues arising out of changing environment of complex commercial transactions, government policies and new laws."*

Other Highlights of the report:

Reasons which create frequent conflicts between both parties which need immediate attention to carve out laws to smoothen the dealings between the two.

Challenges for landlords	Challenges for tenants
Fear of illegal possession by tenants	Fear of untimely eviction
High transaction costs and dependence on brokers	Bias in renting properties to certain population groups
Upkeep of the premises along with common areas of access	No control over security deposit demands
High property tax to be paid as renting is a commercial activity	Disputes with respect to property maintenance
Risk of long-drawn legal battle	Restrictions related to lifestyle habits due to difficult landlords

Ambiguities in the Draft Model Tenancy Act, 2019

There are areas that require clarifications for the landlords and tenants moreover the role of the Central Government, state governments and urban local bodies could also have been more transparently outlined in the MTA or in conjunction with another policy to avoid the long gestation period fraught with implementation challenges which were faced in the case of RERA.

From Landlord's perspective

- Part of Section 16, dealing with the tenant to look after the premises, states that the premises' contents including fixtures and fittings are to be kept "reasonably habitable" with regards to its condition at the commencement of tenancy and the normal incidence of living. It does not specify any parameters to be taken into consideration for a "reasonably habitable" condition and remains ambiguous.

From Tenant's perspective

- Rental revision percentage should have been capped to avoid disputes with landlords.
- Section 23 (2), pertaining to default in making any refund of the amount of advance rent that the landlord has omitted or failed to refund, does not specify the rate at which the landlord is liable to pay interest which can be a bone of contention with tenants going forward. The rate of interest in this situation should be governed by the provision of the tenancy agreement executed between the parties.
- Section 25, pertaining to building of additional structures as part of improvement to premises or new construction, can be misused by landlords to try and evict tenants due to bias.

From a 60% share in total investment in Indian realty in 2011, the share of residential sector declined to 24%; by the end of 2017 and nosedived further in subsequent years. Since rental housing has been a much-neglected sphere, India does not have any residential stock specifically developed to incentivise investments in this space. In view of existing demand for rental housing and this Draft Model Tenancy Act, 2019 to act as a supply side intervention, the upcoming stock for rental housing has the potential to attract investments. Though the rental

housing phenomenon is still evolving in India, rental housing models such as 'Build To Rent' (BTR) and 'Rent To Own' (RTO) are a vital component of the mainstream housing market across the globe. With the impending rollout of the MTA, there are bright chances for the rental housing market to not only get regulated but also attract institutional investors to participate in quality assets in form of BTR and RTO stock.

~ END~

About Knight Frank

Knight Frank LLP is the leading independent global property consultancy. Headquartered in London, Knight Frank has more than 19,000 people operating from over 512 offices across 60 markets. The Group advises clients ranging from individual owners and buyers to major developers, investors and corporate tenants. For further information about the Company, please visit www.knightfrank.com.

In India, Knight Frank is headquartered in Mumbai and has more than 1,400 experts across Bangalore, Delhi, Pune, Hyderabad, Chennai, Kolkata and Ahmedabad. Backed by strong research and analytics, our experts offer a comprehensive range of real estate services across advisory, valuation and consulting, transactions (residential, commercial, retail, hospitality, land & capitals), facilities management and project management. For more information, visit www.knightfrank.co.in

About Khaitan & Co.

Founded in 1911, Khaitan & Co is one of the oldest and largest Indian law firms. Combining a rich heritage of over a hundred years with a modern and cutting-edge practice, the Firm offers full service legal solutions to our domestic and international clients. The Firm's endeavour has been to be proactive and exceed client expectations. We take pride in our approach to work that focuses on understanding clients' business and anticipating their legal needs (present and future) and provide pragmatic and commercial solutions.

The Firm has increasingly invested in the state-of-the-art infrastructure facilities across all its offices. We constantly strive to evolve and adopt international best practices to serve our clients better. The emphasis is to ensure our clients have access to a consistently high quality of service across all its locations and practice areas.

Khaitan & Co's clients include business and financial enterprises, banks, financial institutions, private equity funds, government bodies, educational and charitable trusts, cultural institutions, high net worth individuals, and estates and trusts from India and overseas.

For further information, please contact:

Piyali Dasgupta (Knight Frank India) +91 9833571204 piyali.dasgupta@in.knightfrank.com	Vinay Rajani (White Marque Solutions) +91 9167642913 vinay@whitemarquesolutions.com
Jasleen Batra (Khaitan & Co) + 91 9930593081 Jasleen.batra@khaitanco.com	Shivaani Grover (Commwiser PR) +91 9810426440 shivaani.grover@commwiser.com